IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.380 OF 2004
WITH
NOTICE OF MOTION NO.616 OF 2004

Ashok B. Pokharkar....Petitioner

Versus

1.The Javali Sahakari Bank Ltd. & Ors..Respondents

Mr. Nitin Pradhan with Ms. Hemani Jhariya, for the Petitioners.
Mr. P.S. Gole, with Mr. S.D. Thakade for Respondent No.1.
Mr. A. Sayed, A.G.P. for Respondent Nos. 2, 4 and 7.

CORAM: F.I. REBELLO, J.
DATE : 29th October, 2004

P.C.:

1. Rule. Heard forthwith.

2. For the same reasons as set out while disposing of the Notice of Motion No.618 of 2004 this Notice of Motion No.616 of 2004 is disposed of.

3. The facts and issues involved are same and similar as are involved in Writ Petition No.378 of 2004. The only difference is the nature of transaction. That, however, will make no difference except the figures will be different. For the reasons set out therein this petition can also be disposed of. The amount claimed in the Application as on 31st October, 2002 is Rs.15,00,000/- being the principal amount and Rs.8,52,397/- as the interest due and payuable.

4. The Recovery certificate was issued in a sum of Rs.23,52,391/- and the costs were awarded in a sum of Rs.11,700/-. Interest on the principal amount of Rs.15,00,000/- from 1st November,2002 was at the rate of 17%

per annum. In the light of that the following order:-

(i) The amount of Rs.23,52,391/- as awarded is not interfered with.

(ii) The costs of Rs.11,700/- are not interfered with.

(iii) The principal amount of Rs.23,52,391/- to carry interest from 1st November, 2002 at the rate of 17% p.a. till final payment. It is not open to the respnodents to charge any other interest including penal interest or capitalisation.

(iv) According to the learned Counsel for the petitioners in the instant case they have deposited more than the amount due and payable. If that be the case, it will be open to the petitioners to appropriate the entire amount and adjust the difference against the other accounts for which certificates have been issued. Prothonotary & Senior Master is directed to make payment to the respodnent bank of the amount along with interest if any bank on furnishing authenticated copy of this order.

(v) The petitioner will pay the balance amount which will be calculated after adjusting the deposit made in this Court.

(vi) Rule made absolute accordingly. No order as to costs.

(vii) Costs of the Commissioner be paid by the petitioner.

. Parties/Authorities to act on an ordinary copy of this order duly authenticated by the Associate/Personal Secretary of this Court.

(F.I.REBELLO, J.)